

REMARKS

Claims 1-49 were pending in the present application. Claims 1-33 and 44-49 were withdrawn from consideration and are now cancelled. Claims 50-68 are now added. By virtue of this response, claims 34-43 and 50-68 are pending and are currently under consideration.

Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Claim 34 is amended to require method of expanding a porous body where the porous body has a first side having a different permeability than a remainder of the body. Claim 50 requires a second side of the porous body being less permeable than the first side. Claim 51 requires the second side of the body to be non-permeable. Support for these amendments may be found, for example, in paragraph [0094].

Independent claim 52 combines the requirements of claim 34 prior to amendment with securing a wire reinforcement to an interior surface of the porous body to assist the porous body in maintaining the shape and allowing the second fluid to cure to secure the porous body to the target such that the wire reinforcement remains within the porous body. Support for this claim may be found on paragraph [0103].

Independent claim 59 combines the requirements of claim 34 prior to amendment with a requirement that the porous body comprises at least one rib on an exterior surface of the porous body and has a larger diameter than the porous body when expanded, where expanding the porous body to conform to the shape mechanically locks the rib against the target. Support for this amendment may be found in Fig. 23 and the accompanying text on paragraph [0129].

Applicant believes no new matter has been added and that the amendments are within species A (fig.s 1-12, 22, 23, and 35).

Rejections under 35 USC § 102 - I

Claims 34-37 and 39-43 are rejected under 35 USC § 102(e) as allegedly being anticipated by Bao et al (US Publication No. 2003/0220649). Applicant disagrees.

However, as amended, independent claims 34, 52, and 59 require steps not taught or suggested in Bao.

For example, claim 34 requires a first section having a different permeability than a remaining section of the body. Claim 52 requires a reinforcement wire to be secured to the interior surface of the body to assist the body in maintaining a shape and allowing the second fluid to cure to secure the porous body to the target such that the wire reinforcement remains within the porous body. Claim 59 requires the additional steps of expanding a porous body where the body comprises at on an exterior surface of the porous body and having a larger diameter than the porous body when expanded, where expanding the porous body to conform to the shape mechanically locks the rib against the target.

Applicant is unable to find such teachings in Bao requiring variable permeability of the Bao implant or use of external ribs to secure the implant upon expansion. Moreover, Bao teaches use of a guidewire for positioning the device (see e.g., Bao paragraph [0061]. In this section, Bao specifically teaches removal of the guidewire from the site prior to delivery of the biomaterial.

In view of the above, applicant believes that Bao fails to teach or suggest the requirements of independent claims 34, 52, and 59 as well as any claim ultimately dependent therefrom.

Accordingly, applicant requests withdrawal of this rejection.

Rejections under 35 USC § 102 - II

Claims 34-37 and 39-43 are rejected under 35 USC § 102(a) as allegedly being anticipated by Porter et al (US 6,547,804). Applicant disagrees.

As noted above, applicant amended claims 34, 52, and 59. Applicant is unable to find any teaching or suggestion in Porter regarding steps of using a body having varying sections of permeability or the use of external rings to assist in mechanical locking of the device. Furthermore, Porter also teaches the use of a guidewire that is retracted once the balloon is inflated. See e.g., Porter col. 4, lines 1-3.

In view of the above, applicant believes that Porter fails to teach or suggest the requirements of independent claims 34, 52, and 59 as well as any claim ultimately dependent therefrom.

Rejections under 35 USC § 103

Claim 38 is rejected under 35 USC § 103(a) as allegedly being unpatentable over Bao et al. and Porter et al.

In view of the amendment to claim 34 as noted above, applicant believes this rejection should be withdrawn. The combination of Bao and Porter does nothing to remedy the defects discussed above.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No. TSNMNE00100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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